

HOUSE BILL 758

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CF SB 539

By: **Delegates Niemann, Barnes, Benson, Bronrott, Gilchrist, Hecht, Holmes, Hubbard, Pena–Melnyk, Ross, Tarrant, and V. Turner**
Introduced and read first time: February 5, 2010
Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Public Health – Chain Restaurants – Nutrition Information Labeling**

3 FOR the purpose of requiring certain chain restaurants to provide certain nutrition
4 information for certain menu items; establishing how the nutrition information
5 is to be determined; authorizing chain restaurants voluntarily to provide
6 customers with additional nutrition information; authorizing certain
7 restaurants and similar food establishments voluntarily to elect to be subject to
8 certain provisions of law under certain circumstances; requiring certain
9 nutrition information to be displayed in a certain manner; requiring certain
10 chain restaurants to display certain statements regarding daily caloric intake
11 requirements; establishing certain exceptions to certain enforcement
12 procedures; authorizing a local health department to enforce certain provisions;
13 providing for certain civil penalties; providing for certain exemptions from
14 certain penalties; defining certain terms; and generally relating to nutrition
15 information provided by chain restaurants.

16 BY repealing and reenacting, with amendments,
17 Article – Health – General
18 Section 21–313 and 21–1214
19 Annotated Code of Maryland
20 (2009 Replacement Volume)

21 BY adding to
22 Article – Health – General
23 Section 21–353 through 21–355 to be under the new part “Part VIII. Nutrition
24 Information Labeling”
25 Annotated Code of Maryland
26 (2009 Replacement Volume)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article – Health – General**

4 21–313.

5 (a) [To] **EXCEPT AS PROVIDED IN PART VIII OF THIS SUBTITLE, TO**
6 enforce this subtitle, a representative of the Department, at any reasonable time, may:

7 (1) Enter and inspect any food establishment; and

8 (2) Inspect and sample any item of food that is in a food
9 establishment.

10 (b) A person may not:

11 (1) Refuse to grant access to a representative of the Department who
12 requests to enter and inspect a food establishment under this section; or

13 (2) Interfere with any inspection under this section.

14 **21–351. RESERVED.**

15 **21–352. RESERVED.**

16 **PART VIII. NUTRITION INFORMATION LABELING.**

17 **21–353.**

18 (A) **IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS**
19 **INDICATED.**

20 (B) (1) **“CHAIN RESTAURANT” MEANS A FOOD ESTABLISHMENT THAT:**

21 (I) **HAS 20 OR MORE LOCATIONS NATIONALLY;**

22 (II) **DOES BUSINESS UNDER THE SAME TRADE NAME,**
23 **REGARDLESS OF THE TYPE OF OWNERSHIP OF THE INDIVIDUAL RESTAURANT**
24 **LOCATIONS;**

25 (III) **SERVES FOOD FROM A MENU OR OTHER SALES**
26 **MECHANISM LISTING INDIVIDUAL FOOD ITEMS TO BE CONSUMED IN INDIVIDUAL**
27 **PORTIONS; AND**

1 (IV) OFFERS PREDOMINANTLY THE SAME TYPE OF MENU IN
2 EACH LOCATION.

3 (2) "CHAIN RESTAURANT" DOES NOT INCLUDE:

4 (I) A FULL-SERVICE SUPERMARKET OR GROCERY STORE;

5 (II) A CONVENIENCE STORE; OR

6 (III) A MOVIE THEATRE.

7 (C) "MENU" MEANS THE PRIMARY WRITING OF THE CHAIN
8 RESTAURANT FROM WHICH THE CONSUMER MAKES AN ORDER SELECTION,
9 INCLUDING A MENU BOARD, TAKE-OUT MENU, AND DRIVE-THRU DISPLAY
10 BOARD.

11 (D) "STANDARD MENU ITEM" DOES NOT INCLUDE:

12 (1) A TEMPORARY MENU ITEM THAT APPEARS ON THE MENU FOR
13 LESS THAN 60 DAYS PER YEAR;

14 (2) ITEMS NOT SERVED IN INDIVIDUAL PORTIONS;

15 (3) ITEMS THAT ARE NOT LISTED ON A MENU;

16 (4) CONDIMENTS AND OTHER ITEMS PLACED ON A TABLE OR
17 COUNTER FOR GENERAL USE WITHOUT CHARGE; OR

18 (5) OTHER FOOD ITEMS THAT:

19 (I) ARE PART OF A MARKET TEST; AND

20 (II) APPEAR ON THE MENU FOR LESS THAN 90 DAYS, UNDER
21 TERMS AND CONDITIONS ESTABLISHED BY THE SECRETARY.

22 21-354.

23 (A) (1) A CHAIN RESTAURANT SHALL:

24 (I) LIST THE NUMBER OF CALORIES CONTAINED IN A
25 STANDARD MENU ITEM ON THE MENU;

1 **(II) ON REQUEST BY THE CUSTOMER, PROVIDE THE**
2 **CUSTOMER WITH WRITTEN INFORMATION THAT INCLUDES, FOR EACH SERVING**
3 **SIZE OF THE STANDARD MENU ITEM, THE TOTAL NUMBER OF:**

- 4 1. **CALORIES;**
- 5 2. **CALORIES DERIVED FROM TOTAL FAT;**
- 6 3. **GRAMS OF FAT;**
- 7 4. **GRAMS OF SATURATED FAT;**
- 8 5. **GRAMS OF TRANS FAT;**
- 9 6. **MILLIGRAMS OF CHOLESTEROL;**
- 10 7. **MILLIGRAMS OF SODIUM;**
- 11 8. **GRAMS OF CARBOHYDRATES;**
- 12 9. **GRAMS OF COMPLEX CARBOHYDRATES;**
- 13 10. **GRAMS OF SUGAR;**
- 14 11. **GRAMS OF DIETARY FIBERS; AND**
- 15 12. **GRAMS OF PROTEIN; AND**

16 **(III) POST PROMINENTLY ON THE MENU A CLEAR AND**
17 **CONCISE STATEMENT THAT INCLUDES:**

- 18 1. **INFORMATION ON THE SUGGESTED DAILY**
19 **CALORIC INTAKE, AS SPECIFIED BY THE SECRETARY BY REGULATION; AND**
- 20 2. **THE SIGNIFICANCE OF THE CALORIC**
21 **INFORMATION PROVIDED UNDER ITEM (I) OF THIS PARAGRAPH IN THE CONTEXT**
22 **OF A TOTAL DAILY DIET.**

23 **(2) THE NUTRITION INFORMATION REQUIRED UNDER**
24 **PARAGRAPH (1) OF THIS SUBSECTION SHALL BE LISTED:**

- 25 **(I) NEXT TO THE NAME OF THE STANDARD MENU ITEM;**

1 **(II) IN A SIZE AND TYPEFACE OF EQUAL PROMINENCE TO**
2 **THE PRICE OR NAME OF THE STANDARD MENU ITEM; AND**

3 **(III) PER STANDARD MENU ITEM AS USUALLY PREPARED**
4 **AND OFFERED FOR SALE.**

5 **(B) A CHAIN RESTAURANT SHALL OBTAIN NUTRITION INFORMATION**
6 **USING ANALYTIC METHODS AND EXPRESS NUTRIENT CONTENT IN A MANNER**
7 **CONSISTENT WITH THE FEDERAL FOOD, DRUG, AND COSMETIC ACT AND ITS**
8 **IMPLEMENTING REGULATIONS OR AS SPECIFIED BY THE SECRETARY.**

9 **(C) FOR A STANDARD MENU ITEM THAT COMES IN DIFFERENT FLAVORS,**
10 **VARIETIES, OR COMBINATIONS, BUT IS LISTED AS A SINGLE MENU ITEM, THE**
11 **SECRETARY SHALL ADOPT BY REGULATION STANDARDS FOR DETERMINING AND**
12 **DISCLOSING THE NUTRIENT INFORMATION FOR THOSE ITEMS.**

13 **(D) A CHAIN RESTAURANT VOLUNTARILY MAY PROVIDE ADDITIONAL**
14 **NUTRITION INFORMATION.**

15 **(E) A RESTAURANT OR SIMILAR FOOD ESTABLISHMENT THAT IS NOT**
16 **SUBJECT TO THE REQUIREMENTS OF THIS PART VOLUNTARILY MAY ELECT TO**
17 **BE SUBJECT TO THE REQUIREMENTS OF THIS PART BY REGISTERING THE NAME**
18 **AND ADDRESS OF THE RESTAURANT OR FOOD ESTABLISHMENT WITH THE**
19 **SECRETARY ONCE EVERY 2 YEARS IN ACCORDANCE WITH REGULATIONS**
20 **ADOPTED BY THE SECRETARY.**

21 **21-355.**

22 **(A) (1) A COUNTY MAY DESIGNATE A REPRESENTATIVE FROM THE**
23 **LOCAL HEALTH DEPARTMENT TO ENFORCE THIS PART.**

24 **(2) IF A REPRESENTATIVE FROM THE LOCAL HEALTH**
25 **DEPARTMENT IS NOT DESIGNATED, THIS PART SHALL BE ENFORCED IN**
26 **ACCORDANCE WITH § 21-313 OF THIS SUBTITLE.**

27 **(B) THE ENTITY THAT ENFORCES THIS PART:**

28 **(1) MAY NOT BE REQUIRED TO VERIFY THE ACCURACY OF THE**
29 **NUTRITION INFORMATION; AND**

30 **(2) MAY REQUEST THAT A CHAIN RESTAURANT PROVIDE**
31 **DOCUMENTATION OF THE ACCURACY OF THE NUTRITION INFORMATION.**

1 **(C) (1) (I) THE ENTITY THAT ENFORCES THIS PART MAY ISSUE A**
2 **CIVIL CITATION TO A PERSON WHO VIOLATES ANY PROVISION OF THIS PART IN**
3 **THE SAME MANNER DESCRIBED UNDER ARTICLE 24, § 15-103 OF THE CODE.**

4 **(II) JUDICIAL PROCEEDINGS FOR VIOLATIONS OF THIS**
5 **PART ARE GOVERNED BY ARTICLE 24, § 15-104 OF THE CODE.**

6 **(III) THE ENTITY THAT ENFORCES THIS PART SHALL IMPOSE**
7 **A CIVIL PENALTY NOT EXCEEDING \$500 FOR THE FIRST VIOLATION AND NOT**
8 **EXCEEDING \$1,000 FOR EACH SUBSEQUENT VIOLATION OF THIS PART.**

9 **(IV) THE CIVIL PENALTY IS TO BE COLLECTED IN A CIVIL**
10 **ACTION IN THE DISTRICT COURT FOR THE COUNTY IN WHICH THE VIOLATION**
11 **OCCURRED.**

12 **(2) A PENALTY IMPOSED BY THE LOCAL HEALTH DEPARTMENT**
13 **AND COLLECTED UNDER THIS SECTION SHALL BE PAID INTO THE GENERAL**
14 **FUNDS FOR THE COUNTY IN WHICH THE VIOLATION OCCURRED.**

15 **(3) EACH INSPECTION MAY NOT RESULT IN MORE THAN ONE**
16 **VIOLATION.**

17 21-1214.

18 **(a) THIS SECTION DOES NOT APPLY TO A VIOLATION OF SUBTITLE 3,**
19 **PART VIII OF THIS TITLE.**

20 **(B) Any person who violates any provision of Subtitle 3 of this title or any**
21 **rule or regulation adopted under Subtitle 3 of this title is guilty of a misdemeanor and**
22 **on conviction is subject to:**

23 **(1) For a first offense, a fine not exceeding \$1,000 or imprisonment not**
24 **exceeding 90 days, or both; and**

25 **(2) For a second offense, a fine not exceeding \$2,500 or imprisonment**
26 **not exceeding 1 year, or both.**

27 **[(b)] (C) In addition to any criminal penalties imposed under this section, a**
28 **person who violates any provision of Subtitle 3 of this title or any rule or regulation**
29 **adopted under Subtitle 3 of this title or any term, condition or limitation of any license**
30 **or registration issued under Subtitle 3 of this title:**

31 **(1) Is liable for a civil penalty not exceeding \$5,000, to be collected in a**
32 **civil action in the District Court for any county; and**

1 (2) May be enjoined from continuing the violation.

2 **[(c)] (D)** Each day on which a violation occurs is a separate violation under
3 this section.

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 2010.